

REMARKS

This is in response to the outstanding Office Action, Paper No. 20050707, dated July 28, 2005. Claims 4, 8, 10, 12, 23, 25, 27, 38, and 41 have been amended. The claims now in the application are Claims 1 through 51. Favorable reconsideration of the application, and a Notice of Allowance, is respectfully requested.

The Examiner rejected Claims 1 through 51 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,869,176 to Dorchester et al. These rejections are respectfully traversed in light of the following comments.

Independent Claim 1 defines the invention as a variegated polymeric article having a tinted substrate. The article further has a substantially clear capstock layer applied onto the tinted substrate, and the substantially clear capstock layer has a plurality of accent color streaks and a polymeric capstock material.

Independent Claim 36 defines the invention as polymeric article having a tinted substrate. The article further has a substantially clear capstock layer coextruded onto the tinted substrate. The substantially clear capstock layer has a substantially clear, ultraviolet light resistant polymeric capstock that is compatible with the tinted substrate.

Independent Claim 17 defines the invention as a method for forming a variegated polymeric article having deep coloration and ultraviolet light resistance. The method includes forming a tinted substrate material within a first extruder; forming a substantially clear capstock material within a second extruder; forming a web; and then forming the variegated polymeric article from the web.

Independent Claim 31 defines the invention as method for forming a clear capstock layer having accent color streaks for use in a variegated polymeric article. The method includes introducing a dry mixture of a powdered or pelletized polymeric capstock material and a plurality of streaker

pellets to an extruder, wherein the streaker pellets include an organic carrier resin and an weatherable pigment material; mixing the dry mixture within a first zone and a second zone of the extruder at a first temperature, wherein the first temperature is greater than the melting point of the polymeric capstock and less than the melting point of the organic carrier resin; further mixing the dry mixture within a third zone of the extruder at a second temperature, the second temperature at or slightly below the melting point of the organic carrier resin; and further mixing the dry mixture within a fourth zone of the extruder at a third temperature, the third temperature sufficient to melt the organic carrier resin such that the melted organic carrier resin and the melted capstock material substantially encapsulates the weatherable pigment material.

The claimed invention is not shown or suggested in the art of record. It is respectfully submitted that the Office Action does not meet the criteria for establishing a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the applied reference must teach or suggest all the claim limitations. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. Further, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. See MPEP §2143.

The Dorchester et al. reference teaches a plastic article with an accent color pattern incorporated therein, an accent color pellet, and a method of using the accent color pellet to manufacture the plastic article. Specifically, the

Dorchester et al. reference discloses a capstock extruded from a base material and accent color pellets, which provide an increase in wood-grain appearance (see column 2, lines 23 through 27). Varying quantities of accent color pellets may be used in the capstock in order to provide a strongly colored background with contrasting white or lighter color streaks formed by the accent color pellets, or to provide a light colored background with contrasting darker streaks of any color (see column 3, lines 54 through 59).

The Dorchester et al. reference further discloses that the substrate is hidden from view when the siding is applied to a building (see column 5, lines 2 through 4). Additionally, the Dorchester et al. reference specifically discloses that the invention relates to the manner in which accent color patterns or streaks are formed in the plastic siding, and to control of the streaking and mixing of the pellet accent colors with the capstock. The Dorchester et al. reference specifically discloses introducing the accent color patterns into the capstock, because only the capstock forms the externally exposed portion of the siding (see column 6, lines 44 through 51).

Thus, the Dorchester et al. reference teaches only siding having an opaque capstock applied to a substrate which is always hidden from view when the siding is applied to a building, and therefore teaches away from the invention as recited in Applicant's claims. The Dorchester et al. reference does not show or suggest either (1) a substantially clear capstock layer applied onto a tinted substrate, (2) a substantially clear capstock layer co-extruded onto a tinted substrate, (3) a method of forming a substantially clear capstock layer and combining the substantially clear capstock layer with a tinted substrate to form a web and then a variegated polymeric article, or (4) a method of forming a clear capstock layer having accent color streaks for use in a variegated polymeric article, as claimed.

Therefore, contrary to the Examiner's assertion, the cited reference does not teach or suggest the invention as recited in Applicant's claims, and a *prima*

facie case of obviousness has not been established. Accordingly, at least for these reason, Claims 1, 17, 31, and 36 are patentable over the cited reference, and Applicant requests withdrawal of the rejection under 35 U.S.C. §103(a).